

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIAM MARR,

No. C 09-05978 WHA

Plaintiff,

v.

**ORDER REGARDING JOINT  
STIPULATION RE DISMISSAL  
AND ENTRY OF JUDGMENT**

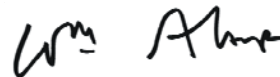
BANK OF AMERICA, NATIONAL  
ASSOCIATION,

Defendant.

The parties have ostensibly settled this case. Yet their newly-filed “joint stipulation re dismissal and entry of judgment” has problems. This document stipulates to the Court entering a form of judgment dictated by the parties, which itself is unclear, and sets forth a lengthy description of claims, some of which are to be dismissed with prejudice and some of which are to be dismissed without prejudice over defendant’s objection, to “allow Plaintiff to pursue his appeal.” A plaintiff may not appeal following a voluntary dismissal entered pursuant to a settlement agreement, however. *Concha v. London*, 62 F.3d 1493, 1507 (9th Cir. 1995). Nor have the parties identified any authority that would entitle them to a form of judgment of their choosing when they file a dismissal such as this under FRCP 41(a)(1)(A)(ii). Nevertheless, the submission does include a dismissal of plaintiff’s claims, and as such will be considered a voluntary dismissal under FRCP 41(a)(1)(A)(ii). **THE CLERK SHALL CLOSE THE FILE.**

**IT IS SO ORDERED.**

Dated: April 27, 2011.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE